

Application No. 10/604,143
Docket No. A2-1456
Amendment dated October 20, 2005
Reply to Office Action of July 20, 2005

REMARKS

In the Office Action, the Examiner reviewed claims 18-31 of the above-identified US Patent Application, with the result that claims 18-22, 24, 25, and 27 were rejected under 35 USC §102, claims 28-31 were allowed, and claims 23 and 26 (which depend from claim 18) were deemed to recite allowable subject matter. In response, Applicant has amended the specification and claims as set forth above. More particularly:

The specification has been amended to correct an error regarding the identification of Figures 2 and 3.

Independent claim 18 has been amended to incorporate the limitations of its dependent claim 21 and to specify that the integral fin (22) and its first portion (24) are parallel to the internal passage (14) and extend in a direction away from the external surface (18) of the tube (10) so that the orientation of the fin (22) relative to the tube (10) enables co-extrusion of the tube (10), the fin (22), and the first portion (24) thereof. Support for the latter limitation can be found in each of Applicant's Figures and paragraph [0015] of the specification.

In view of its limitations being incorporated into claim 18, claim 21 has been amended to recite a limitation found in each of the Figures.

In view of the incorporation of the limitations of claim 21 into claim 18,

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dependent claim 22 and 23 (which originally depended from claim 21) have been amended to depend directly from claim 18.

Applicant believes that the above amendments do not present new matter. Favorable reconsideration and allowance of claims 18-31 are respectfully requested in view of the above amendments and the following remarks.

Rejections under 35 USC §102

Independent claim 18 and its dependent claims 19, 20, 24, 25, and 27 were rejected under 35 USC §102 as being anticipated by WO94/23257 to Jurisich. Applicant believes this rejection has been overcome by the incorporation into claim 18 of the limitations of claim 21, which was not rejected on the basis of Jurisich.

Independent claim 18 and its dependent claims 19, 21, and 22 were rejected under 35 USC §102 as being anticipated by U.S. Patent No. 1,830,375 to Shoop. Applicant respectfully requests reconsideration of this rejection in view of the amendments presented above as well as the following comments.

Applicant's amended independent claim 18 recites a tube (10) that

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requires at least one integral fin (22) having alternating first and second portions (24,26), in which the first portions (24) extend a greater distance from the external surface (18) of the tube (10) than the second portions (26). The fin (22) and its first portion (24) are parallel to the internal passage (14) within the tube (10) (and therefore parallel to the extrusion direction of the tube (10)), and extend in a direction away from the external surface (18) of the tube (10) so that the orientation of the fin (22) relative to the tube (10) enables co-extrusion of the tube (10), the fin (22), and its first portion (24). Applicant wishes to emphasize that this recital is a physical limitation and not merely a process limitation because it excludes physical features - including fin shapes - whose orientations cannot be produced by co-extrusion with the tube (10).

Shoop discloses a tube 14 and a pair of strips 18 and 19 that are formed separately, with each strip 18 and 19 having a convoluted profile along its longitudinal length that defines alternating raised crimps 20/21 and recessed pockets 22/23. Applicant presumes the raised crimps 20 and 21 are deemed by the Examiner to correspond to Applicant's fins 22, as the crimps 20 and 21 are the only portion of the strips 18 and 19 that extend away from Shoop's tube 14 as required by Applicant's claim 18. When attached to the tube 14, the strips 18 and 19 are oriented so that their convoluted profile - and particularly the raised crimps 20 and 21 - could not possibly be co-extruded with the tube

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14, as the crimps 20 and 21 run transverse, not parallel, to the passage 17 within the tube 14.

Finally, the term "integral" used in the claims was "construed to include separate fin members firmly affixed to the tube surface" on the basis that "claim terms are given their broadest reasonable interpretation" (citation omitted). However, MPEP §2111.01 requires that:

The words of a claim must be given their "plain meaning" unless they are defined in the specification.

Applicant expressly defined the term "integral fins" at paragraph [0015] of the specification to exclude the broad interpretation given by the Examiner under the present rejection.

In view of the above, Applicant believes that Shoop does not anticipate independent claim 18 nor any of its dependent claims under the test for anticipation set forth at MPEP §2131, and therefore respectfully requests withdrawal of this rejection of the claims under 35 USC §102.

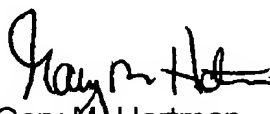
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Closing

In view of the above, Applicant respectfully requests that his patent application be given favorable reconsideration.

Should the Examiner have any questions with respect to any matter now of record, Applicant's representative may be reached at (219) 462-4999.

Respectfully submitted,

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